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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,613	01/13/2004	Jerald C. Seelig	619.739	4801
21707 7590 09/13/2007 IAN F. BURNS & ASSOCIATES P.O. BOX 71115 RENO, NV 89570			EXAMINER COBURN, CORBETT B	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 09/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/757,613

Applicant(s)

SEELIG ET AL.

Examiner

Corbett B. Coburn

Art. Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey (Slot Machines, A Pictorial History of the First 100 Years) in view of Nordman (US Patent Number 6,712,694).

**Claim 1:** Fey teaches the Reliance. The Reliance has at least one housing and at least one display area located on the housing (i.e., the face of the machine). Around the perimeter of the display are a plurality of prize displays displaying game related indicia disposed on the display area. There is at least one animated figure (i.e., the hands make up an animated figure) coupled to the housing. The animated figure have a first animated element (one hand) that is part of, or operatively coupled to, the animated figure. The first animated element is moveable between at least two positions. In at least one position, the first animated element indicates at least one of the plurality of prize Displays. There is a second animated element (i.e., a second hand), which is part of, or operatively coupled to the animated figure. The second animated element is movable between at least two positions.

The Reliance has a clock face and simple clock-like movement. As noted above, the selection of the form and movement of the pointers is a matter of aesthetic design choice that has no effect whatsoever on the game play or the function of the machine. It is well known to adopt a particular theme for the entertainment of the player. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Reliance to have the pointer's appearance and movement correspond to a theme chosen by the designer.

Fey's Reliance teaches a first actuator located in the housing and coupled to the first animated element (something must spin the hands). Fey does not teach a controller located in the housing determining a game outcome, and in communication with the first actuator, wherein the first actuator moves the first animated element in response to a signal sent by the controller. All modern slot machines make use of controllers (i.e., computers) to determine the outcome of the game and to control movement of the game's elements. This allows game operators to have much greater control over the game. Nordman teaches such a controller (38). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fey's Reliance in view of Nordman to use a controller located in the housing determining a game outcome, and in communication with the first actuator, wherein the first actuator moves the first animated element in response to a signal sent by the controller in order to update the game to use modern technology that allows game operators to have much greater control over the game.

While neither the Reliance nor Nordman specifically discloses moving the pointers at variable speeds, this is a matter of design choice that is well within the level of ordinary skill in the art and leads to predictable results.

**Claim 2:** Fey's Reliance teaches the invention substantially as claimed, but fails to teach that the animated figure comprises a representation of all or part of an animal, a bird, a human, a human-like figure, a boat, an automobile, or a train car. Clearly, on its face, the claim indicates that the animated figure may assume any form chosen by the designer. The form of the animated figure is clearly a matter of aesthetic design choice and does not distinguish over the prior art.

**Claim 3:** The game related indicia displayed by the prize display indicated by the first animated element comprises a monetary award or its equivalent.

**Claims 4 & 8:** Fey teaches the invention substantially as claimed, but fails to teach that the game related indicia displayed by the prize display indicated by the second animated element comprises a multiplier. Multipliers are notoriously well known to the art. Multipliers are known to attract players. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fey's Reliance to have the second animated element point to a multiplier in order to attract players.

**Claim 5:** At least one position the second animated element indicates a prize display.

**Claim 6:** The prize display indicated by the second animated element comprises game related indicia.

**Claim 7:** The prize display indicated by the first animated element indicates different game related indicia than the prize display indicated by the second animated element (i.e., they may point to different game related indicia).

**Claims 10 & 12:** The Reliance teaches the invention substantially as claimed, but fails to teach that the first & second actuators are stepper motors. Stepper motors have replaced the mechanical contrivances used in the early days of the slot machine industry. Stepper motors can be controlled by microprocessors. This allows game operators to have much greater control over the game. Furthermore, stepper motors are much more reliable than the devices used in the Reliance's day. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Reliance to have the actuators be stepper motors in order to take advantage of their reliability and the ability to be controlled by microprocessors.

**Claim 11:** The Reliance teaches that the first animated element is in communication with the second animated element, whereby actuation of the first animated element by the first actuator actuates the second animated element. Both hands spin at the same time.

**Claim 13:** The Reliance's hands move independently of each other – the location of one hand is not controlled by the location of the other.

**Claims 14 & 15:** The animated figure represents a single object that comprises a plurality of objects. The figure can be considered the combination of hands.

**Claim 16:** The second animated element may comprise the animated figure. Each hand is an animated figure since each hand moves.

**Claim 17:** The Reliance teaches the invention substantially as claimed, but fails to teach that at least one of the prize displays comprises a plurality of rotatable sections, each section comprising at least one indicia. Nordman teaches a device that has a pointer (80) like the Reliance that points to prize displays comprises a plurality of rotatable sections, each section comprising at least one indicia. (Fig 4) Further, Nordman teaches that the pointer and the prize display may be arranged to resemble a clock. (Col 8, 36-45) Nordman teaches that this arrangement provides a fun and exciting mechanical display. (Col 1, 58-64) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Reliance in view of Nordman to have at least one of the prize displays comprise a plurality of rotatable sections, each section comprising at least one indicia in order to provides a fun and exciting mechanical display.

**Claim 18:** Nordman's Fig 5 shows the first animated element indicating a pay line comprising indicia on one or more rotatable sections.

**Claim 19:** Neither Nordman nor the Reliance teaches that the game value is correlated with the movement rate of the pointer. This is, however, a matter of design choice that is well within the level of ordinary skill and which yields predictable results.

**Claim 20:** The Reliance's first animated element is animated for a time period having a duration, wherein at least a portion of the plurality of prize displays comprise game related indicia having a value, whereby the value of the game related indicia is correlated to the duration of the time period. The reliance spins the pointers for a certain amount of time. The length of time the pointers spin determines where they stop. The position of

the hands where they stop determines the prize value. Therefore, the prize value is correlated with the duration of spin.

**Claim 21:** The Reliance has a player input device in communication with the controller, the player input device allowing a player to provide player input, the first animated element being moved proximate a prize display according to the player input.

**Claim 22:** Indicia are displayed on the prize display selected by the player after the player has entered the player input. By choosing the gaming machine to play, the player selects the prize display. The indicia are displayed on the prize display both before and after the player input.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-16 & 20-22 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant has apparently misunderstood Examiner's position *vis-à-vis* the pointers.

Examiner does not contend that the pointers are merely aesthetic with no game function.

Examiner contends that the **form** of the pointer (i.e., it's outward appearance) is a matter of aesthetics. The function of hands on a clock is not affected by their appearance. It does not matter whether they are shaped as arrows, or Mickey's hands, they still point to the appropriate number.

5. The indicated allowability of claim 19 is withdrawn in view of the Court's decision in KSR.

Claim 19 was deemed allowable because there was no teaching, suggestion, or motivation in the prior art to move the pointers in the claimed manner. However, KSR has made it clear that the TSM test is no longer the only indication of obviousness. If a modification can be



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made to a device by one of ordinary skill and this modification would yield predictable results, then the modification is considered obvious.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/  
Primary Examiner  
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